

1. The petitioners are legal heirs and representatives of one Asgarali Farid who died on 22nd November, 1990. Petitioner Nos. 1 and 3 are his sons and Petitioner No. 2 is his widow. By this petition, the petitioners seek to challenge the letter dated 11th January, 1996 issued by the respondent Maharashtra Industrial Development

Corporation (MIDC) declining the request of the petitioners to execute an agreement of lease for the plot of land bearing R-590.situate in TTS Industrial area, Thane Belapur Road, New Bombay.

2. Briefly stated the facts and circumstances giving rise to this petition are as follows:

. Deceased Asgarali Farid was carrying business of manufacturing masalas in the name and style of a proprietary firm, namely, Jai Bharat Masala Mill. It appears that the deceased had made an application dated 11th July, 1988 for allotment of plot of land to the respondent for the purpose of constructing a factory at TTC Industrial Area for manufacturing masala. In response to the said application, the respondent vide its letter dated 3rd September, 1988 had informed the said deceased that it was possible for the respondent to consider the request of the deceased for allotment of plot admeasuring 600 sq.meters in TCC Industrial Area subject to the said deceased submitting an application duly completed and pay a sum of Rs.90,000/- as and by way of earnest money. In pursuance of the said letter the deceased had made an application in the prescribed form and had

forwarded a sum of Rs.90,000/- by pay order. Thereafter the deceased was allotted the plot bearing No.R-590 admeasuring 750 sq.meters in TTC Industrial Area and vide order dated 7th March, 1999 he was called upon to pay a sum of Rs.2,25,000/- The deceased had already paid a sum of Rs.90,000/- as earnest money and he paid the balance amount of Rs.1,35,000/- vide 3 different Demand Drafts all dated 7th April, 1989.

2. It is thus clear that the plot in question was allotted to the deceased and the entire amount of lease premium was duly paid to the MIDC. It appears that vide letter dated 19th April, 1999 the respondent forwarded two copies of blank agreements of lease to be executed by the deceased. According to the petitioner the deceased was suffering from heart ailment and could not execute the lease deed. It appears that as a result the respondents cancelled the allotment vide letter dated 4th August, 1990. It appears that by a letter dated 12th November, 1990 the respondents passed an order for refund of Rs.2,25,000/- paid by the deceased. However, it is an admitted position that till today the amount has not been returned. In the mean time after suffering a heart attack Asgarali Farid died

in the hospital on 22nd November, 1990.

3. It is the case of the petitioners that after the death of the deceased the petitioner no.2 with the help of her younger son i.e. petitioner no.3 started carrying the business. At the material time petitioner no.1 was out of India. However, after the death of the deceased petitioner no.1 came back to India and started looking after the business of the deceased along with other petitioners. The petitioners were not aware of the allotment of plot in favour of the deceased. However, according to them, when they came across the file containing the documents of allotment of plot they wrote to the MIDC on 31st May, 1995 and 8th December, 1995 requesting to execute the agreement of lease. MIDC, however, vide letter dated 11th September, 1996 refused to examine the petitioners' case on the ground that the allotment has been already cancelled on 4th August, 1990.

4. In the instant case the deceased had paid the entire consideration for the plot and only formality that remained to be done was to execute a formal deed of lease. Unfortunately during the relevant time the deceased was suffering from heart

ailment and ultimately he died on 22nd November, 1990. Having received full consideration from the deceased the respondent was not justified in not executing the lease agreement in favour of the legal heirs which was merely a formality. It is conceded by the learned counsel for the respondent that even now the plot in question is lying vacant and is not allotted to any party. Further inspite of an order passed by respondent the amount is also not returned to the legal heirs till date. In peculiar facts and circumstances of the case, we feel that petitioners' prayer for directing the respondent to execute the agreement lease in their favour is liable to be accepted. Accordingly, we make the rule absolute in terms of prayer clauses (a) and (b). Respondents are directed to comply with this order within a period of 8 weeks.

Parties to act on an ordinary copy of this order duly authenticated as true copy by the Sheristedar/P.S. of this Court.